



UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/938,832	09/26/97	UDDENFELDT J	027556-431

LM02/0804
BURNS DOANE SWECKER & MATHIS
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ALEXANDRIA VA 22313-1404

EXAMINER

URBAN, E

ART UNIT PAPER NUMBER

2746

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DATE MAILED: 08/04/98

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
08/938,832

Applicant(s)
Uddenfeldt et al.

Examiner
Edward Urban

Group Art Unit
2746



☐ Responsive to communication(s) filed on _____.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-21 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-21 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☒ received in Application No. (Series Code/Serial Number) 07/365,432.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Reissue Applications

1. The reissue oath/declaration filed with this application is defective because it fails to identify at least one error which is relied upon to support the reissue application. See 37 CFR 1.175(a)(1) and MPEP § 1414.

The declaration states that the claims “may be” too broad in relation to a cited reference. For the declaration to recite that an error arose, the facts and results of this error should be recited positively. It is suggested that the word “arguably” be deleted in section 7 of the declaration.

Also, the declaration does not include the residence addresses nor does the declaration state that the inventors are “joint” inventors as required by 37 CFR 1.63.

2. Claims 1-21 are rejected as being based upon a defective reissue declaration under 35 U.S.C. 251 as set forth above. See 37 CFR 1.175.

The nature of the defect(s) in the declaration is set forth in the discussion above in this Office action.

3. In accordance with 37 CFR 1.175(b)(1), a supplemental reissue oath/declaration under 37 CFR 1.175(b)(1) must be received before this reissue application can be allowed.

Claims 1-21 are rejected as being based upon a defective declaration under 35 U.S.C. 251. See 37 CFR 1.175. The nature of the defect is set forth above.

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Receipt of an appropriate supplemental oath/declaration under 37 CFR 1.175(b)(1) will overcome this rejection under 35 U.S.C. 251. An example of acceptable language to be used in the supplemental oath/declaration is as follows:

"Every error in the patent which was corrected in the present reissue application, and is not covered by a prior oath/declaration submitted in this application, arose without any deceptive intention on the part of the applicant."

4. This reissue application was filed without the required offer to surrender the original patent or, if the original is lost or inaccessible, an affidavit or declaration to that effect. The original patent, or an affidavit or declaration as to loss or inaccessibility of the original patent, must be received before this reissue application can be allowed. See 37 CFR 1.178.
5. The original patent, or an affidavit or declaration as to loss or inaccessibility of the original patent, must be received before this reissue application can be allowed. See 37 CFR 1.178.
6. It is acknowledged that the Applicant desires to have the formal drawings transferred from the patent. The formal drawings will be transferred upon the allowance of the reissue application.
7. The references received 5/98 did not contain an Information Disclosure Statement and a form 1449. It is requested that Applicant submit an IDS and form 1449 listing the references submitted in order to formally consider these references.

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Allowable Subject Matter

8. The following is a statement of reasons for the indication of allowable subject matter: the combined features of at least transmitting, from a first base station transmitter, radio signals digitally modulated with message information to a mobile station; while transmitting the radio signals from the first base station transmitter to the mobile station, beginning to transmit from a second base station transmitter to the mobile station radio signals digitally modulated with substantially the same message information; combining, in said mobile station, information transmitted by said first base station transmitter and information transmitted by said second base station transmitter to reconstruct said message information; and terminating the transmission from the first base station transmitter to the mobile station while continuing to transmit from the second base station transmitter radio signals digitally modulated with message information to the mobile station was not found nor fairly suggested in the prior art.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward Urban whose telephone number is (703)305-4385.

EFU

August 2, 1998


EDWARD F. URBAN
PRIMARY EXAMINER



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DATE MAILED:

INTERVIEW SUMMARY

All participants (applicant, applicant's representative, PTO personnel):

(1) Mr. Steve Du Bois (3) Mr. [Signature]
(2) Mr. Kris Khalidunda (4) _____

Date of Interview 8/12/98

Type: ☒ Telephonic ☒ Personal (copy is given to ☐ applicant ☐ applicant's representative).

Exhibit shown or demonstration conducted: ☐ Yes ☒ No If yes, brief description: _____

Agreement ☒ was reached. ☐ was not reached.

Claim(s) discussed: _____

Identification of prior art discussed: _____

Description of the general nature of what was agreed to if an agreement was reached, or any other comments: discussed
revisions to declaration. will submit
supplemental declaration shortly

(A fuller description, if necessary, and a copy of the amendments, if available, which the examiner agreed would render the claims allowable must be attached. Also, where no copy of the amendments which would render the claims allowable is available, a summary thereof must be attached.)

1. ☒ It is not necessary for applicant to provide a separate record of the substance of the interview.

Unless the paragraph above has been checked to indicate to the contrary, A FORMAL WRITTEN RESPONSE TO THE LAST OFFICE ACTION IS NOT WAIVED AND MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a response to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW.

2. ☐ Since the Examiner's interview summary above (including any attachments) reflects a complete response to each of the objections, rejections and requirements that may be present in the last Office action, and since the claims are now allowable, this completed form is considered to fulfill the response requirements of the last Office action. Applicant is not relieved from providing a separate record of the interview unless box 1 above is also checked.

Examiner Note: You must sign this form unless it is an attachment to another form.

FORM PTOL-413 (REV.1-96)